



**VIVID**

## **Workplace Behaviour Policy**

### **POLICY:**

Vivid is committed to ensuring that its workplace is one where all employees, potential employees, volunteers, students, contractors, clients and other external parties (including families and carers) are treated with respect and are free from discrimination, vilification, sexual harassment, bullying and victimisation (together known as 'unacceptable behaviour').

This Policy, and any amendments to it, do not form part of the employment contract of Vivid employees.

### **SCOPE:**

This Policy, and the following procedures, apply to all Vivid employees (which includes supported employees), potential employees, volunteers, students, contractors, clients and other external parties (including families and carers). It applies regardless of whether they work full-time, part-time or as casuals.

This Policy, and the following procedures, apply:

- in the workplace, including work outside normal working hours;
- during work activities, including dealing with clients; and
- at work-related events, including social functions.

### **Does this Policy cover the behaviour of clients, families and carers?**

At Vivid the expectation is that clients, families and carers behave in a manner which is consistent with this Policy.

At no time in providing Vivid's services should anyone be subjected to unacceptable behaviour by Vivid's clients, families or carers, and appropriate action will be taken if any of the standards of behaviour set out in this Policy are breached.

### **PROCEDURES:**

#### **1. Responsibilities**

##### **1.1 General responsibilities**

Everyone who works at Vivid is responsible for ensuring that they:

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Approved by: Chief Executive Officer

Workplace Behaviour Policy

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Page 1 of 14

- 1.1.1 are familiar with this Policy;
- 1.1.2 comply with this Policy;
- 1.1.3 attend regular Vivid training, and
- 1.1.4 adhere to Vivid's [Code of Conduct](#).

#### 1.2 Supervisor

People who work in supervisory positions at Vivid must also take all reasonable steps to ensure that Vivid's workplaces are free from unacceptable behaviour.

#### 1.3 Client responsibilities

At no time when providing services to clients will any Vivid employee use an unacceptable ground or attribute of discrimination to decide (refer to Clause 2.2):

- 1.3.1 whether the service is to be provided;
- 1.3.2 the type of service to be provided; or
- 1.3.3 the manner in which the service is to be provided.

### 2. Discrimination

#### 2.1 How does discrimination happen?

Discrimination can happen either directly or indirectly:

- **Direct discrimination** occurs when a person is treated (or is proposed to be treated) unfavourably because of any of the grounds or attributes listed below.
- **Indirect discrimination** occurs when there is an unreasonable rule, requirement or practice which appears neutral, but which will (or is likely to) disadvantage people with an attribute or ground listed below.

For example, the minimum height requirement that used to exist in the police force *directly* discriminated against short people on the basis of physical appearance, and *indirectly* discriminated against women and people of certain races, who tend to be shorter.

#### 2.2 Unacceptable grounds or attributes of discrimination

At Vivid, discrimination based on any of the following grounds or attributes is unacceptable:

- 2.2.1 sex;

- 2.2.2 marital status;
- 2.2.3 pregnancy or potential pregnancy;
- 2.2.4 race;
- 2.2.5 religion;
- 2.2.6 political beliefs;
- 2.2.7 disability, illness or injury;
- 2.2.8 industrial activity or trade union membership;
- 2.2.9 workplace right or right under a workplace law;
- 2.2.10 employment activity;
- 2.2.11 sexual orientation or lawful sexual activity;
- 2.2.12 gender history, gender identity, transgender or transsexual status;
- 2.2.13 carer status, parental status or family responsibilities;
- 2.2.14 physical features;
- 2.2.15 breastfeeding;
- 2.2.16 age; or
- 2.2.17 personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

### 2.3 Examples of discriminatory behaviour

Discrimination may involve:

- 2.3.1 offensive 'jokes' or comments about another person's racial or ethnic background, sex, sexual preference, age, disability, and the like;
- 2.3.2 display of pictures, calendars, pin-ups, posters, computer images (e.g. in electronic mail messages or posts on social networking sites to which work colleagues have access) which are offensive or derogatory;
- 2.3.3 expressing negative stereotypes of particular groups, for example, 'married women shouldn't be working';
- 2.3.4 judging a person on characteristics such as religious or political beliefs, cultural practices, sex or age rather than work performance; or

- 2.3.5 using stereotypes or assumptions when making decisions about a person's career.

#### 2.4 Exceptions

In some situations legislation may provide exceptions to discrimination or permit what would otherwise be unlawful discrimination. In these circumstances discrimination will be permissible. For example what might otherwise be unlawful discrimination may be justified if the person cannot perform the inherent requirements of their position.

### 3. Vilification

#### 3.1 What is vilification?

Vilification is a public act which incites hatred towards, serious contempt for, or severe ridicule of, a person or group on the ground of:

- 3.1.1 race;
- 3.1.2 religion;
- 3.1.3 homosexuality or sexual orientation;
- 3.1.4 HIV/AIDS status;
- 3.1.5 transgender; or
- 3.1.6 disability.

Vilification breaches this Policy and is also unlawful. It may also amount to a criminal offence if physical harm is threatened towards a person or their property.

#### 3.2 Examples of vilification

Vilification can take many forms, including hate-speech, graffiti, websites and other types of written material. It is an act which happens publicly, as opposed to privately.

Examples of vilification include:

- 3.2.1 a person inciting their workmates to racially abuse an Aboriginal man in a cafeteria;
- 3.2.2 posters and graffiti inciting hatred of Jewish people being put up in a workplace; or
- 3.2.3 a person urging workmates to abuse a Muslim employee and remove her Hijab (veil).

### 3.3 What is not vilification

Free speech is protected, so the following things are not vilification:

- 3.3.1 a fair report by TV, radio or newspaper of someone else's act of hatred (unless extra material has been added which is vilifying);
- 3.3.2 fair discussions or debates about issues, done 'reasonably and in good faith'; or
- 3.3.3 material used in parliament, courts, tribunals or other government inquiries.

## 4. Sexual harassment

### 4.1 What is sexual harassment?

A person sexually harasses another person if they:

- 4.1.1 make an 'unwelcome sexual advance';
- 4.1.2 make an 'unwelcome request for sexual favours'; or
- 4.1.3 engage in other 'unwelcome conduct of a sexual nature',

**and** a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.

'Conduct of a sexual nature' includes:

- 4.1.4 subjecting a person to any act of physical intimacy;
- 4.1.5 making, verbally or in writing, any remark or statement with sexual connotations to a person or about a person; and
- 4.1.6 making any gesture, action or comment of a sexual nature.

### 4.2 Motive or intention is irrelevant

Sexual harassment is unwelcome, uninvited behaviour which is offensive **from the viewpoint of the person being harassed**. It does not matter that the offender did not mean or intend to sexually harass the other person. In other words, an offender's 'innocent intent' is irrelevant.

It is how the act is perceived that is important.

### 4.3 Examples of sexual harassment

Sexual harassment can involve any physical, visual, verbal or non-verbal conduct of a sexual nature including either one-off incidents or a series of incidents. It also

includes workplace behaviour or behaviour in connection with work, for example, at a Christmas party or at a work function outside of normal work hours.

Depending on the circumstances, other examples of sexual harassment are:

- 4.3.1 displays of sexually graphic material including posters, pictures, calendars, cartoons, graffiti or messages left on boards or desks;
- 4.3.2 electronic mail messages, voice mail messages, SMSs, screen savers, posts on social networking sites to which work colleagues have access, any material of a sexual nature downloaded from the internet, or viewed on a computer, offensive telephone calls, faxes, or gifts;
- 4.3.3 deliberate and unnecessary physical contact, such as patting, pinching, fondling or deliberately brushing against another body, attempts at kissing;
- 4.3.4 leering or staring at a person's body;
- 4.3.5 inappropriate 'humour' such as smutty or sexist jokes or comments;
- 4.3.6 innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance;
- 4.3.7 repeatedly asking someone out, especially after prior refusal; and
- 4.3.8 intrusive inquiries into a person's private life or in reference to a person's sexuality.

4.4 Behaviour does not need to be unlawful to breach this Policy

Vivid may decide that behaviour breaches this Policy even if a complaint has not been raised. For example, storing and viewing sexually explicit images on a computer at work may constitute sexual harassment under this Policy (as well as a breach of other Vivid's policies) even if a complaint has not been made against the offender. This behaviour is still unacceptable at work, even if it is not unlawful, and may result in disciplinary action being taken, including termination of employment.

5. Alcohol and functions

- 5.1 Everyone who works at Vivid is expected to behave in a professional and appropriate manner at all work related events, including all Vivid functions, external events and conferences. Consumption of alcohol is no excuse for unacceptable behaviour.
- 5.2 For more information on alcohol and functions at Vivid, please see the Responsible Hosting Guidelines at Attachment 1.

## 6. Bullying

Refer to the [Workplace Bullying Policy](#).

## 7. Victimisation

### 7.1 What is victimisation?

Victimisation means subjecting or threatening to subject someone to a 'detriment' (see definition below), because they propose to, have, or are believed to have, under this Policy, equal opportunity legislation or occupational health and safety or industrial legislation:

- 7.1.1 asserted their rights under this Policy, or the relevant legislation;
- 7.1.2 alleged that another person has breached this Policy or the relevant legislation; or
- 7.1.3 assisted someone in raising an issue.

Vivid does not permit retaliation against a person just because they propose to, have, or are believed to have made a complaint of unacceptable behaviour under this Policy, equal opportunity legislation or occupational health and safety or industrial legislation.

### 7.2 What is detriment?

A 'detriment' in employment includes demotion, dismissal, transfer, suspension, loss of a benefit, being ostracised from work or work-related social functions, or being the subject of gossip or innuendo.

### 7.3 If someone raises a complaints with you about your behaviour

If a person raises a complaint directly with you about your behaviour, you should appreciate that they are letting you know that they find your behaviour unacceptable. They are giving you an opportunity to change your behaviour, and possibly prevent a formal complaint from being made against you. If someone does raise a complaint with you about your behaviour, you should consider monitoring and changing your behaviour, and you must not victimise the person making the complaint.

## 8. Why is unacceptable behaviour a problem?

### 8.1 Unacceptable behaviour is not just an issue effecting the individuals or group concerned. They have implications for the morale, health and safety, and service quality for all people involved at Vivid.

### 8.2 Workplace harassment and bullying can result in:

- 8.2.1 Increased absenteeism;

- 8.2.2 Increased work error rate;
- 8.2.3 Increased work accident rate, greater than necessary injury/stress claims;
- 8.2.4 Low morale;
- 8.2.5 Reduced job satisfaction;
- 8.2.6 Decreased productivity;
- 8.2.7 Poor outcomes for clients and supported employees;
- 8.2.8 Increased risk to the health and safety of all; and
- 8.2.9 Loss of reputation/public image.

9. What can I do if I believe I am being subjected to unacceptable behaviour?

- 9.1 If it is at all possible tell the person responsible that you object to their behaviour and would like them not to do it again.
- 9.2 It is important that you focus on the specific behaviours concerned and explain why you find them offensive.
- 9.3 Quite often, this is all that is needed to resolve the matter. The person may be unaware that their behaviour is offensive or upsetting and they will stop immediately once they are told.
- 9.4 If this is not possible, or if it does not stop the unacceptable behaviour, you must seek assistance from your direct supervisor or senior manager who will determine whether action (if any) is warranted pursuant to the [Compliments and Complaints Policy](#) or the [Disciplinary Policy](#).
- 9.5 If a formal complaint is to be made the [Compliments and Complaints Policy](#) will apply.

10. Compliments and Complaints Policy

- 10.1 The Compliments and Complaints Policy must be followed when making a complaint.
- 10.2 Key features of this Policy:

10.2.1 Confidential

Only the people involved in the attempted resolution or the investigation of an issue or complaint will have access to information about it. This means that only those people with a genuine role to play in helping to resolve an issue or complaint should know its details or discuss them. Anyone found to have engaged in gossip or innuendo about an issue or complaint is at risk of

disciplinary action from Vivid and possibly legal action under the laws of defamation.

Vivid considers confidentiality one of the most important aspects of dealing with issues and complaints about unacceptable behaviour. However, in some circumstances information may not be able to be kept confidential, such as where physical threats are involved or the law otherwise requires it.

#### 10.2.2 Respectful

Everyone involved in an issue or complaint raised under this Policy will be treated with dignity and respect throughout the complaint process.

Similarly, everyone involved in an issue or complaint is required to treat each other with dignity and respect even if they feel aggrieved by a situation.

#### 10.2.3 Fair and impartial

Both parties will have the opportunity to tell their side of the story. No assumptions will be made and, to the extent possible, no action will be taken until all relevant information has been collected and considered.

#### 10.2.4 Supportive

No action will be taken against anyone for making or helping someone to raise an issue or a genuine complaint. Vivid will take all reasonable steps to support anyone raising an issue or making a complaint, and to ensure that they are not victimised.

#### 10.2.5 Prompt

All issues and complaints will be dealt with as quickly as possible.

### 10.3 Substantiated complaints

If a complaint is substantiated Vivid will take appropriate action. If you are found to have breached this Policy you may be subject to appropriate disciplinary action, which may include termination of employment or ending your engagement or relationship with Vivid.

### 10.4 Malicious or false complaints

If you are found to have raised a malicious or false complaint against another person in order to prejudice that person, you may also be subject to appropriate disciplinary action, which may include termination of employment or ending your engagement or relationship with Vivid.

11. Staff and client professional boundaries

11.1 Be friendly, not friends

11.1.1 The general rule for staff to observe in setting, and maintaining, professional boundaries with clients are that staff can be friendly to, but not friends of, the people they support.

11.1.2 Staff must not accept invitations to be friends on Facebook, or other social media, with clients.

11.1.3 Staff must not provide clients with their phone number.

11.1.4 Staff must not kiss or hug clients.

11.1.5 Staff must not take clients to their home.

11.1.6 Vivid encourages its staff to be friendly - but staff must remember their professional boundaries, in particular the fact that you are not the friend of the person you are supporting (how many of your friends pay you to be with them?).

11.2 Kissing and hugging

11.2.1 The role of staff includes supporting clients to learn accepted social norms to enable them the best possible chance to gain acceptance from others and become involved in the community within which they live. If hugging is practiced at Vivid then it will fail the client by setting them up for failure in the community.

11.2.2 Staff must act as a role model with what are acceptable, and unacceptable, social greetings. For example:

(a) Family and close friends - kiss and hug or handshake;

(b) Friends, acquaintances and meeting new people - handshake only.

11.2.3 Kissing and hugging a client is discriminatory and can hurt other clients' feelings or have a detrimental impact on client self-esteem. Staff need to think, in this context, about how they would feel if they were a client who sees others receiving hugs from staff but never get a hug themselves because they have a challenging behaviour or a severe physical disability - you would feel left out, alienated, not liked.

11.2.4 Close physical contact with clients also puts staff at the risk of physical injury and allegations of sexual abuse.

11.2.5 An exception to this rule that staff must not kiss or hug clients is that in situations of extreme distress a hug may well be quite acceptable and

appropriate - for example, if a client has a family member or close friend die, or if they sustain a significant injury and need comfort.

### 11.3 Home visits

11.3.1 Subject to clause 11.3.3, staff must not support clients at the staff member's home.

11.3.2 There are numerous personal, and organisational, risks in having clients at your home, including:

- (a) Vulnerability of staff to allegations of abuse and sexual assault;
- (b) Vulnerability of staff to allegations of failing to fulfil their duty of providing adequate support to the person in their care;
- (c) Placing family members at risk;
- (d) Failure of duty of care with the home environment not having been subjected to any health and safety assessment.

11.3.3 Having a client attend a staff person's home can only occur if:

- (a) There is a clear, demonstrated, benefit for a client to be supported at a staff person's home and there are no viable community based alternatives; and
- (b) A risk assessment has been carried out; and
- (c) The consent of the client's family/carer has been obtained; and
- (d) Prior approval is obtained from the Executive Manager Commercial Operations; and
- (e) Any approval has an expiry date (which cannot be, in any event, later than 12 months from the approval date) by which the arrangement must be reviewed utilising the process described in this clause 11.3.3.

### 11.4 Personal errands

11.4.1 Staff must not make personal errands, of any nature during work time.

11.4.2 Undertaking personal errands, during work hours, has risks for staff and Vivid. For example:

- (a) It is very difficult to justify how the completion of a staff member's personal errands is really what the client will want to do with their service time;

- (b) The implication that the activity in which the client is participating is not structured around that client's needs.

12. Failure to comply

Failure to comply with this Policy may result in disciplinary action in accordance with the [Disciplinary Policy](#). This may include informal counselling, warnings or termination of employment.

13. Related Policies and Documents

Other policies and documents which are relevant to the Workplace Behaviour Policy include:

13.1 [Victoria's Charter of Human Rights & Responsibilities](#)

## Attachment 1 - Responsible Hosting Guidelines

Vivid recognises the role that everyone who works at the organisation plays by setting an example in the responsible use of alcohol at organisation sponsored functions. Vivid is committed to ensuring the responsible use of alcohol at such functions.

This commitment is founded on the need for consideration for those who do not drink alcohol, consideration for those whose lives are affected by alcohol misuse and consideration for those who personally experience difficulty in the use of alcohol.

The following guidelines are intended to assist in the planning and hosting of Vivid functions when alcohol is served:

1. Alcohol is not essential at any Vivid sponsored function.
2. The use of alcohol is a personal choice. No one should feel pressured to drink or not to drink or be made to feel uneasy or embarrassed as a result of their choice.
3. The person responsible for organising any Vivid event where alcohol is served is accountable for ensuring that alcohol is served in a manner that respects its potential as a drug that affects safety and health.
4. Non-alcoholic beverages must always be visibly available in adequate variety and supply and must be presented in as appealing a manner as alcoholic drinks.
5. Food such as non-salty snacks and hors d'oeuvres must be provided with alcohol.
6. Bartenders, or those charged with the responsibility of mixing and serving drinks, must be instructed to use moderate to light amounts of alcohol. Arrangements (which are probably most likely at functions held outside Vivid's offices) where the alcohol provider is paid by the number of empty bottles must be avoided.
7. Specify when alcohol will be served and cease (generally, a specific hour will be sufficient). The bar must close promptly at that time.
8. Permit each person to accept or decline an alcoholic drink. Avoid assumptions about what people want to drink at meals.
9. The hosts must assume responsibility for the function and take steps to see that these guidelines are observed.
10. If the hosts are aware that a guest has had too much to drink, hosts must take steps to cease service of alcohol to the person and to provide supervised transportation home for that person.
11. Where representatives of Vivid are present at functions sponsored by another company where alcohol is available, professional and responsible behaviour and the use of good judgment is expected.

## Guidelines for safe drinking limits

Guidelines for safe drinking limits suggest that to maintain a blood alcohol level of less than 0.05%, which is the maximum limit permitted for safe driving, drinkers should consume no more than:

- (a) For males, 2 standard drinks in the first hour and one per hour thereafter;
- (b) For females, one standard drink per hour.<sup>1</sup>
- (c) A standard drink is equivalent to a glass of wine, a nip of spirits or a middy of full strength beer.

### Version Control

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<sup>1</sup> Australian Alcohol Guidelines: Health Risks and Benefits, Endorsed October 2001, National Health & Medical Research Council (NHMRC).